

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FLAVIA BENITEZ,
Plaintiff,

v.

SODEXHO MARRIOTT SERVICES,
Defendant.

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) C.A. NO.: 04-11959-NG
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**DEFENDANT'S BRIEF STATEMENT PURSUANT TO
THE COURT'S MARCH 27, 2006 SCHEDULING ORDER**

The defendant, Sodexho, Inc., misnamed herein Sodexho Marriott Services, hereby submits this Brief Statement pursuant to the Scheduling Order issued by the Court (Dein, USMJ), on March 27, 2006.

Case Status

On March 27, 2006, the Court issued an Order indicating that the Plaintiff's deposition was to occur on May 23, 2006. The Court gave the Plaintiff a deadline of May 10, 2006 to move to continue the deposition date. The Plaintiff made no such motion. On May 22, 2006, counsel for the Defendant received correspondence from the Plaintiff (dated May 18, 2006) indicating that she would not be appearing her deposition on May 23, 2006. A copy of this correspondence is attached. Relying on the Plaintiff's letter, Defendant's counsel canceled the services of the Court Reporter who was scheduled to transcribe the deposition. On May 23, 2006, the Plaintiff came to the office of Defendant's counsel, and indicated that she had submitted a letter to the Court on May 22, 2006 indicating that she would appear for her deposition. Plaintiff did not send this

letter to Defendant's counsel. Because there was no Court Reporter, the Plaintiff's deposition was not taken.

Accordingly, the Defendant requests that the Court set a new date for the Plaintiff's deposition. The Plaintiff has requested that her deposition occur in the courthouse, and the Defendant is willing to conduct the deposition at the courthouse, if the Court is willing to allow the parties to use a room for such deposition.

Additionally, three of the Plaintiff's medical providers have indicated that they will not release the Plaintiff's records without a particular form of release. Those medical providers have forwarded that release to Defendant's counsel, who has in turn forwarded the releases to the Plaintiff for signature. To date, the Plaintiff has refused to sign and return these releases.

Scheduling

On March 27, 2006, the Court entered a Scheduling Order for this matter. The Defendant respectfully suggests a slight modification to this Order. After review of the documents obtained through discovery, the Defendant believes that it has grounds to move for summary judgment as to the Plaintiff's claims. The Defendant currently believes that it will only have to take an abbreviated deposition of the Plaintiff to successfully move for summary judgment. Accordingly, the Defendant suggests the following alternative Scheduling Order:

1. The deposition of the Plaintiff will occur on June 7, 2006. This deposition will be for a duration of four hours.
2. By June 21, 2006, the Defendant will inform the Court and the Plaintiff if it plans on immediately moving for summary judgment. If the Defendant declines to

immediately move for summary judgment, the original Scheduling Order entered by the Court will remain in effect, the parties will continue with discovery, and the Defendant will be allowed to finish the Plaintiff's deposition.

3. If the Defendant does inform the Court that it intends to move for summary judgment, the Defendant proposes the following briefing schedule:

A. Defendant to file Summary Judgment motion by July 17, 2006.

B. Plaintiff opposition to Motion for Summary Judgment shall be served and filed by August 17, 2006.

C. Defendant's Reply will be served and filed by August 25, 2006.

4. In the event that the Defendant's initial Motion for Summary Judgment is denied, the Court can set a revised Scheduling Order for the remainder of fact discovery (including the conclusion of the Plaintiff's deposition), dispositive motions and expert discovery.

Use of Alternative Dispute Resolution

At this time, the Defendant is not interested in submitting this matter to an Alternative Dispute Resolution program.

Consent to Trial Before the Magistrate Judge

The defendant respectfully declines at this time to consent to trial before the Magistrate Judge.

WHEREFORE, the Defendant respectfully requests that the Court approve the Defendant's Proposed Modification to the Scheduling Order.

Respectfully submitted,

SODEXHO, INC.,
by its attorneys,

/s/ Brian M. Haney

Kenneth J. Martin, BBO #: 636643

Brian M. Haney, BBO #: 661674

COOLEY MANION JONES LLP

21 Custom House Street

Boston, MA 02110

(617) 737-3100

Facsimile: (617) 737-0374

Dated: May 26, 2006

CERTIFICATE OF SERVICE

I, Brian M. Haney, attorney for Sodexho, Inc., misnamed herein as Sodexho Marriott Services, in the above-captioned action, hereby certify that on this 26th day of May, 2006, a copy of Defendant's Brief Statement Pursuant to the Court's March 27, 2006 Scheduling Order was served via first-class mail upon the plaintiff, Flavia Benitez, at the following address:

P.O. Box 302437
Jamaica Plain, MA 02130.

/s/ Brian M. Haney

Brian M. Haney